

State of Arizona
House of Representatives
Fiftieth Legislature
Second Regular Session
2012

House Engrossed
FILED
KEN BENNETT
SECRETARY OF STATE

CHAPTER 59

HOUSE BILL 2259

AN ACT

AMENDING SECTIONS 32-1207, 32-1233, 32-1234 AND 32-1299, ARIZONA REVISED
STATUTES; RELATING TO THE STATE BOARD OF DENTAL EXAMINERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 32-1207, Arizona Revised Statutes, is amended to
3 read:

4 32-1207. Powers and duties; executive director; immunity; fees;
5 definition

6 A. The board shall:

7 1. Adopt rules not inconsistent with this chapter for the regulation
8 of its own conduct, for holding examinations and for regulating the practice
9 of dentists and supervised personnel and registered business entities,
10 provided:

11 (a) Regulation of supervised personnel is based on the degree of
12 education and training of the supervised personnel, the state of scientific
13 technology available and the necessary degree of supervision of the
14 supervised personnel by dentists.

15 (b) Except as provided pursuant to section 32-1281, only licensed
16 dentists may perform diagnosis and treatment planning, prescribe medication
17 and perform surgical procedures on hard and soft tissues.

18 (c) Only a licensed dentist, or dental hygienist in consultation with
19 a dentist, may perform examinations, oral health assessments and treatment
20 sequencing for dental hygiene procedures.

21 2. Adopt a seal.

22 3. Maintain a record that shall remain available to the board at all
23 times of its acts and proceedings, including the issuance, denial, renewal,
24 suspension or revocation of licenses and the disposition of complaints. The
25 existence of a pending complaint or investigation shall not be disclosed to
26 the public. Records of complaints shall be available to the public, except
27 only as follows:

28 (a) If the board dismisses or terminates a complaint, the record of
29 the complaint shall not be available to the public.

30 (b) If the board has issued a nondisciplinary letter of concern, the
31 record of the complaint shall be available to the public only for a period of
32 five years after the date the board issued the letter of concern.

33 (c) If the board has required additional nondisciplinary continuing
34 education pursuant to section 32-1263.01 but has not taken further action,
35 the record of the complaint shall be available to the public only for a
36 period of five years after the licensee satisfies this requirement.

37 (d) If the board has assessed a nondisciplinary civil penalty pursuant
38 to section 32-1208 but has not taken further action, the record of the
39 complaint shall be available to the public only for a period of five years
40 after the licensee satisfies this requirement.

41 4. Establish a uniform and reasonable standard of minimum educational
42 requirements consistent with the accreditation standards of the American
43 dental association commission on dental accreditation to be observed by
44 dental schools and dental hygiene schools in order to be classified as
45 recognized dental schools or dental hygiene schools.

1 5. Establish a uniform and reasonable standard of minimum educational
2 requirements that are consistent with the accreditation standards of the
3 United States department of education or the council on higher education
4 accreditation and that must be observed by denture technology schools in
5 order to be classified as recognized denture technology schools.

6 6. Determine the reputability and classification of dental schools,
7 dental hygiene schools and denture technology schools in accordance with
8 their compliance with the standard set forth in paragraph 4 or 5 of this
9 subsection, whichever is applicable.

10 7. Issue licenses to those it determines are eligible for licensure
11 pursuant to this chapter.

12 8. Determine the eligibility of applicants for restricted permits and
13 issue restricted permits to those found eligible.

14 9. Pursuant to section 32-1263.02, investigate charges of misconduct
15 on the part of licensees and persons to whom restricted permits have been
16 issued.

17 10. Issue a letter of concern, which is not a disciplinary action, but
18 refers to practices that may lead to a violation and to disciplinary action.

19 11. Issue decrees of censure, fix periods and terms of probation,
20 suspend or revoke licenses, certificates and restricted permits, as the facts
21 may warrant, and reinstate licenses, certificates and restricted permits in
22 proper cases.

23 12. Collect and disburse monies.

24 13. Perform all other duties that are necessary to enforce this chapter
25 and that are not specifically or by necessary implication delegated to
26 another person.

27 14. Establish criteria for the renewal of permits issued pursuant to
28 board rules relating to general anesthesia and sedation.

29 B. The board may:

30 1. Sue and be sued.

31 2. Issue subpoenas, including subpoenas to the custodian of patient
32 records, compel attendance of witnesses, administer oaths and take testimony
33 concerning all matters within its jurisdiction. If a person refuses to obey
34 a subpoena issued by the board, the refusal shall be certified to the
35 superior court and proceedings shall be instituted for contempt of court.

36 3. Adopt rules:

37 (a) Prescribing requirements for continuing education for renewal of
38 all licenses issued pursuant to this chapter.

39 (b) Prescribing educational and experience prerequisites for the
40 administration of intravenous or intramuscular drugs for the purpose of
41 sedation or for use of general anesthetics in conjunction with a dental
42 treatment procedure.

1 (c) Prescribing requirements for obtaining licenses for disabled or
2 retired licensees, including the triennial license renewal fee.

3 4. Hire consultants to assist the board in the performance of its
4 duties and employ persons to provide investigative, professional and clerical
5 assistance as it deems necessary.

6 5. Contract with other state or federal agencies as required to carry
7 out the purposes of this chapter.

8 6. If it determines necessary, order physical, psychological,
9 psychiatric and competency evaluations of licensed dentists and dental
10 hygienists, certified denturists and applicants for licensure and
11 certification.

12 C. The executive director or the executive director's designee may:

13 1. Issue and renew licenses, certificates and permits to applicants
14 who meet the requirements of this chapter.

15 2. Initiate an investigation if evidence appears to demonstrate that a
16 dentist, dental hygienist, denturist or restricted permit holder may be
17 engaged in unprofessional conduct or may be unable to safely practice
18 dentistry.

19 3. Initiate an investigation if evidence appears to demonstrate that a
20 business entity may be engaged in unethical conduct.

21 4. Subject to board approval, enter into a consent agreement with a
22 dentist, denturist, dental hygienist or restricted permit holder if there is
23 evidence of unprofessional conduct.

24 5. Subject to board approval, enter into a consent agreement with a
25 business entity if there is evidence of unethical conduct.

26 6. REFER CASES TO THE BOARD FOR A FORMAL INTERVIEW.

27 7. IF DELEGATED BY THE BOARD, ENTER INTO A STIPULATION AGREEMENT WITH
28 A PERSON UNDER THE BOARD'S JURISDICTION FOR THE TREATMENT, REHABILITATION AND
29 MONITORING OF CHEMICAL SUBSTANCE ABUSE OR MISUSE.

30 D. Members of the board are personally immune from liability with
31 respect to all acts done and actions taken in good faith and within the scope
32 of their authority.

33 E. The board by rule shall require that a licensee obtain a permit for
34 the application of general anesthesia, semiconscious sedation or conscious
35 sedation, shall establish and collect a fee of not more than three hundred
36 dollars to cover administrative costs connected with issuing the permit and
37 shall conduct inspections to assure compliance.

38 F. The board by rule may establish and collect fees for license
39 verification, board meeting agendas and minutes, published lists and mailing
40 labels.

41 G. This section does not prohibit the board from conducting its
42 authorized duties in a public meeting.

43 H. For the purposes of this section, "record of complaint" means the
44 document reflecting the final disposition of a complaint or investigation.

1 Sec. 2. Section 32-1233, Arizona Revised Statutes, is amended to read:
2 32-1233. Applicants for licensure: examination requirements

3 An applicant for licensure shall have passed all of the following:

4 1. ~~Parts I and II of~~ The WRITTEN national dental board examinations.

5 2. The western regional examining board examination within five years
6 preceding filing the application.

7 3. The Arizona dental jurisprudence ~~examinations~~ EXAMINATION.

8 Sec. 3. Section 32-1234, Arizona Revised Statutes, is amended to read:
9 32-1234. Dental consultant license

10 A. A person may apply for a dental consultant license if the applicant
11 demonstrates to the board's satisfaction that the applicant:

12 1. Has continuously held a license to practice dentistry for at least
13 twenty-five years issued by one or more states or territories of the United
14 States or the District of Columbia, but is not currently licensed to practice
15 dentistry in Arizona.

16 2. Is of good moral character.

17 3. Has not had a license to practice dentistry revoked by a dental
18 regulatory board in another jurisdiction in the United States for an act that
19 occurred in that jurisdiction and that constitutes unprofessional conduct
20 pursuant to this chapter.

21 4. Is not currently under suspension or restriction by a dental
22 regulatory board in another jurisdiction in the United States for an act that
23 occurred in that jurisdiction and that constitutes unprofessional conduct
24 pursuant to this chapter.

25 5. Has not surrendered, relinquished or given up a license to practice
26 dentistry in lieu of disciplinary action by a dental regulatory board in
27 another jurisdiction in the United States for an act that occurred in that
28 jurisdiction and that constitutes unprofessional conduct pursuant to this
29 chapter.

30 6. Meets the applicable requirements of section 32-1232.

31 7. Meets the requirements of section 32-1233, paragraphs 1 and 3. If
32 an applicant has taken a state written theory examination instead of ~~parts I~~
33 ~~and II of~~ the WRITTEN national dental board examinations, the applicant must
34 provide the board with official documentation of passing the written theory
35 examinations in the state where the applicant holds a current license. The
36 board shall then determine the applicant's eligibility for a license pursuant
37 to this section.

38 8. Meets the application requirements as prescribed in rule by the
39 board.

40 B. The board shall suspend an application for a dental consultant
41 license if the applicant is currently under investigation by a dental
42 regulatory board in another jurisdiction in the United States. The board
43 shall not issue or deny a license to the applicant until the investigation is
44 resolved.

1 C. A person to whom a dental consultant license is issued shall
2 practice dentistry only in the course of the person's employment or on behalf
3 of an entity licensed under title 20 with the practice limited to supervising
4 or conducting utilization review or other claims or case management activity
5 on behalf of the entity licensed pursuant to title 20. A person who holds a
6 dental consultant license is prohibited from providing direct patient care.

7 D. This section shall not be deemed to require a person to apply for
8 or hold a dental consultant license in order for that person to serve as a
9 consultant to or engage in claims review activity for an entity licensed
10 pursuant to title 20.

11 E. Except as provided in subsection B of this section, a dental
12 consultant licensee is subject to all of the provisions of this chapter that
13 are applicable to licensed dentists.

14 Sec. 4. Section 32-1299, Arizona Revised Statutes, is amended to read:

15 32-1299. Substance abuse treatment and rehabilitation program;
16 private contract; funding; confidential stipulation
17 agreement

18 A. The board may establish a confidential program for the treatment
19 and rehabilitation of dentists, denturists and dental hygienists who are
20 impaired by alcohol or drug abuse. This program shall include education,
21 intervention, therapeutic treatment and posttreatment monitoring and support.

22 B. The board may contract with other organizations to operate the
23 program established pursuant to this section. A contract with a private
24 organization shall include the following requirements:

25 1. Periodic reports to the board regarding treatment program activity.

26 2. Release to the board on demand of all treatment records.

27 3. Periodic reports to the board regarding each dentist's, denturist's
28 or dental hygienist's diagnosis and prognosis and recommendations for
29 continuing care, treatment and supervision.

30 4. Immediate reporting to the board of the name of an impaired
31 practitioner ~~who~~ WHOM the treating organization believes to be a danger to
32 ~~the public or himself~~ SELF OR OTHERS.

33 5. Immediate reporting to the board of the name of a practitioner who
34 refuses to submit to treatment or whose impairment is not substantially
35 alleviated through treatment.

36 C. The board may allocate an amount of not more than twenty dollars
37 annually or sixty dollars triennially from each fee it collects from the
38 renewal of active licenses for the operation of the program established by
39 this section.

40 D. A dentist, denturist or hygienist who, in the opinion of the board,
41 is impaired by alcohol or drug abuse shall agree to enter into a confidential
42 nondisciplinary stipulation agreement with the board. The board shall place
43 a licensee or certificate holder on probation if the licensee or certificate
44 holder refuses to enter into a stipulation agreement with the board and may
45 take other action as provided by law. The board may also refuse to issue a

1 license or certificate to an applicant if the applicant refuses to enter into
2 a stipulation agreement with the board.

3 ~~E. Subject to the board's approval, the executive director may enter~~
4 ~~into a stipulation agreement with any person under the board's jurisdiction~~
5 ~~for the treatment, rehabilitation and monitoring of chemical substance abuse~~
6 ~~or misuse.~~

APPROVED BY THE GOVERNOR MARCH 20, 2012.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 22, 2012.

Passed the House January 26, 20 12

by the following vote: 55 Ayes,

0 Nays, 4 Not Voting
1 vacant

[Signature]
Speaker of the House

[Signature]
Chief Clerk of the House

Passed the Senate March 15, 20 12

by the following vote: 25 Ayes,

5 Nays, 0 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

19th day of MARCH, 20 12

at 2:37 o'clock P M.

[Signature]
Secretary to the Governor

Approved this 20th day of

March.

at 7:09 o'clock P. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 22nd day of March, 20 12

at 8:14 o'clock a M.

[Signature]
Secretary of State

H.B. 2259